

Of Counsel:  
Jerry I. Wilson  
Attorney At Law  
A Law Corporation

JERRY I. WILSON 1961  
Suite 1450, 220 South King Street  
Honolulu, Hawaii 96813-4542  
Telephone: (808) 536-9307

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JUN 23 2004

at 10 o'clock and 45 min. A.  
WALTER A.Y.H. CHINN, CLERK

Attorney for Defendant  
FELIPE RAGUINDEN DOMANGUERA (02)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 04-00061 (02) DAE
	)	
Plaintiff,	)	NOTICE OF MOTION; DEFENDANT
	)	FELIPE RAGUINDEN DOMANGUERA'S
vs.	)	MOTION FOR WITHDRAWAL AND
	)	SUBSTITUTION OF COUNSEL;
FELIPE RAGUINDEN DOMANGUERA,,	)	EXHIBIT "A"; CERTIFICATE OF
also known as "Phil", also	)	SERVICE
known as "Barber",	(02)	)
	)	
Defendant.	)	HEARING
	)	DATE: <u>Thurs., June 24, 2004</u>
	)	TIME: <u>10:30 a.m.</u>
	)	MAGISTRATE
	)	JUDGE: <u>BARRY M. KURREN</u>
	)	

NOTICE OF MOTION

TO: BEVERLY WEE SAMESHIMA  
Assistant United States Attorney  
Office of the United States Attorney  
Room 6100, PJKK Federal Building  
300 Ala Moana Boulevard  
Honolulu, Hawaii 96850

Attorney for Plaintiff  
UNITED STATES OF AMERICA

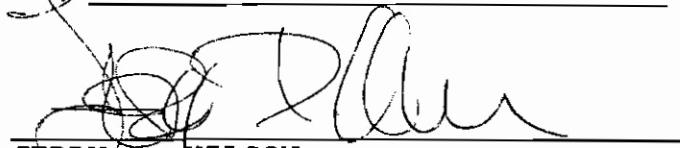
EXHIBIT "B"

FELIPE RAGUINDEN DOMANGUERA  
c/o Federal Detention Center  
#91108-022  
P. O. Box 30080  
Honolulu, Hawaii 96820

Defendant (02)

**PLEASE TAKE NOTICE** that the following motion will be heard before the Honorable Magistrate Judge BARRY M. KURREN in his Courtroom in the United States Courthouse, 300 Ala Moana Boulevard, Honolulu, Hawaii 96813, on Thursday, the 24<sup>th</sup> day of June, 2004, at 10:30 a.m., or as soon thereafter as counsel may be heard.

DATED: Honolulu, Hawaii, JUN 23 2004.

  
JERRY I. WILSON  
Attorney for Defendant  
FELIPE RAGUINDEN DOMANGUERA (02)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

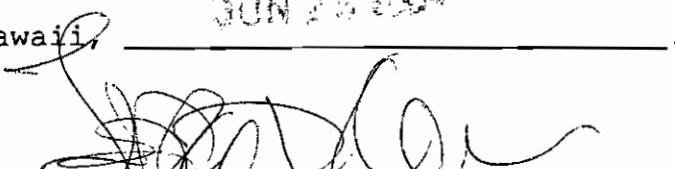
UNITED STATES OF AMERICA, ) CR. NO. 04-00061 (02) DAE  
                              )  
Plaintiff,                )  
                              ) DEFENDANT FELIPE RAGUINDEN  
vs.                        ) DOMANGUERA'S MOTION FOR  
                              ) WITHDRAWAL AND SUBSTITUTION  
FELIPE RAGUINDEN DOMANGUERA, ) OF COUNSEL  
also known as "Phil", also )  
known as "Barber",        (02) )  
                              )  
Defendant.                )  
                              )  
                              )  
                              )

---

**DEFENDANT FELIPE RAGUINDEN DOMANGUERA'S  
MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL**

Comes now JERRY I. WILSON, substitute court-appointed attorney for Defendant FELIPE RAGUINDEN DOMANGUERA, and pursuant to Rules 44 and 47 of the Federal Rules of Criminal Procedure and CrimLR 44.1 of the Criminal Local Rules of the United States District Court for the District of Hawaii, moves this Honorable Court to withdraw as said counsel and to appoint new counsel for the Defendant for the reasons stated in the attached declaration and exhibit.

DATED: Honolulu, Hawaii, JUN 20 2004.

  
JERRY I. WILSON  
Attorney for Defendant  
FELIPE RAGUINDEN DOMANGUERA (02)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, ) CR. NO. 04-00061(02) DAE  
                            )  
Plaintiff,               ) DECLARATION OF COUNSEL;  
                            )  
vs.                       ) EXHIBIT "A"  
                            )  
                            )  
FELIPE RAGUINDEN DOMANGUERA, )  
also known as "Phil", also )  
known as "Barber",       (02) )  
                            )  
Defendant.               )  
                            )  
                            )  
                            )  
                            )  
                            )  
                            )

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DECLARATION OF COUNSEL

I, JERRY I. WILSON, declare as follows:

1. That I am the substitute court-appointed attorney for Defendant FELIPE RAGUINDEN DOMANGUERA, and have personal knowledge of the matters hereinafter stated except as otherwise indicated; that Mr. Domanguera requested new counsel after he discharged his prior counsel, Lane Takehashi; that Mr. Takahashi thoroughly briefed me regarding Mr. Domanguera and his case before I met Mr. Domanguera.

2. That Mr. Domanguera is charged with possession with intent to distribute 1,379.3 grams (gross weight) of "ice" (97% purity).

3. That Mr. Domanguera initially denied any involvement in the crime and alleged that Mr. Takehashi had NEVER discussed the

USSG with him; that Mr. Domanguera further stated that he had NO discovery and had given his copies to his "family", thus he asked me to send him additional copies of the discovery, 21 USC 841 et seq., and other pertinent documents, which I did immediately; that myself and my Staff Supervisor both met with Mr. Domanguera and thoroughly discussed the facts and USSGs which were applicable to this case but he was very unhappy when we discussed the possible/probable guidelines.

4. That I advised Mr. Domanguera that I would research a possible motion to suppress evidence, but soon after our meeting he stated that he wanted to plead and cooperate (5K motion), thus I so advised AUSA Beverly Wee Sameshima who prepared a proposed Memorandum of Plea Agreement dated June 4, 2004, which I immediately mailed to Mr. Domanguera; that Mr. Domanguera telephoned my office after receiving the plea offer and voiced no objection, thus a change of plea date was obtained and I advised him that I would come to see him to discuss the plea offer and hearing prior thereto.

5. That I met with Mr. Domanguera at the Federal Detention Center ("FDC") on Tuesday, June 22, 2004, at which time he told me an entirely different story than he had initially; that, however, Mr. Domanguera denied the essential sub-paragraph in paragraph 8 of the plea offer and again objected to the estimated guideline range; that Mr. Domanguera also indicated that I should

get him out of FDC pretrial, without any new fact or circumstance and prior to any plea, but I could not promise that I could do so successfully after Mr. Takehashi's efforts (but I would try).

6. That Mr. Domanguera then decided that he would not plead out and would instead exercise his right to a jury trial, thus I left FDC about noon after telling him that I would so notify Mrs. Sameshima and the Court and would soon return to begin his trial preparation.

7. That upon my return to my office on June 22<sup>nd</sup>, I was advised that Mr. Domanguera had telephoned my office at 12:15 p.m. and requested this motion; that a true and accurate copy of Mr. Domanguera's message to my office is attached hereto as Exhibit "A".

8. That I am ready, willing and able to continue assisting Mr. Domanguera despite the above (requests for new appointed counsel often follow receipt and review of plea offers from the government).

THAT DECLARANT DECLARES UNDER PENALTY OF PERJURY THAT THE FACTS CONTAINED HEREIN ARE TRUE AND CORRECT TO THE BEST OF DECLARANT'S KNOWLEDGE AND BELIEF.

DATED: Honolulu, Hawaii, JUN 24 2007.

  
\_\_\_\_\_  
JERRY I. WILSON  
Attorney for Defendant  
FELIPE RAGUINDEN DOMANGUERA (02)

Re: Domanguera, Felipe

June 22, 2004

12:15 p.m.

Jerry,

Felipe called (838-4200, prepaid call) and said that he had met with you earlier. He said that after he talked to you, he went back to his cell and then changed his mind. He now wants you "to do a withdrawal", and stated that he and his attorney "don't get along together". Please send him a copy of the "withdrawal" when it's filed, so that he'll know when the hearing is.

I told him I'd give you his message.

C

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing will be duly mailed or delivered to the following persons at their last known addresses upon filing and receipt of said document:

**BEVERLY WEE SAMESHIMA**

Assistant United States Attorney  
Office of the United States Attorney  
Room 6100, PJKK Federal Building  
300 Ala Moana Boulevard  
Honolulu, Hawaii 96850

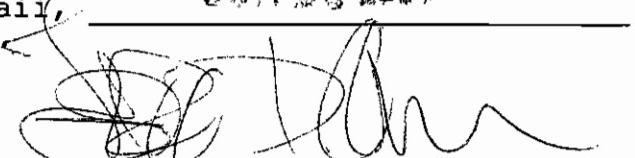
Attorney for Plaintiff  
UNITED STATES OF AMERICA

**FELIPE RAGUINDEN DOMANGUERA**

#91108-022  
c/o Federal Detention Center  
P.O. Box 30080  
Honolulu, Hawaii 96820

Defendant (02)

DATED: Honolulu, Hawaii, JUN 28 2007.

  
\_\_\_\_\_  
JERRY I. WILSON  
Attorney for Defendant  
FELIPE RAGUINDEN DOMANGUERA (02)

*U.S. X/61  
6-160*

Of Counsel:  
Jerry I. Wilson  
Attorney At Law  
A Law Corporation

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JUN 28 2004

JERRY I. WILSON 1961  
Suite 1450, 220 South King Street  
Honolulu, Hawaii 96813-4542  
Telephone: (808) 536-9307

at 4 o'clock and 150 min. M.  
WALTER A.Y.H. CHINN, CLERK

Attorney for Defendant  
FELIPE RAGUINDEN DOMANGUERA (02)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 04-00061(02) DAE
	)	
Plaintiff,	)	ORDER DENYING DEFENDANT FELIPE
	)	RAGUINDEN DOMANGUERA'S MOTION
vs.	)	FOR WITHDRAWAL AND SUBSTITUTION
	)	OF COUNSEL FILED JUNE 23, 2004
FELIPE RAGUINDEN DOMANGUERA,	)	
also known as "Phil", also	)	
known as "Barber", (02)	)	
Defendant.	)	Hearing Date:
	)	Thursday, June 24, 2004,
	)	at 10:30 a.m.
	)	
	)	Magistrate
	)	Judge: BARRY M. KURREN
	)	

**ORDER DENYING DEFENDANT FELIPE RAGUINDEN  
DOMANGUERA'S MOTION FOR WITHDRAWAL  
AND SUBSTITUTION OF COUNSEL FILED JUNE 23, 2004**

The above-entitled matter having duly come on for hearing  
before the Honorable BARRY M. KURREN on Thursday, June 24, 2004, at  
approximately 11:00 a.m., and

Assistant U.S. Attorney BEVERLY WEE SAMESHIMA appearing  
on behalf of the United States of America, and JERRY I. WILSON,

ESQ., appearing on behalf of Defendant FELIPE RAGUINDEN DOMANGUERA who was present, and

The Court, having reviewed DEFENDANT FELIPE RAGUINDEN DOMANGUERA'S MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL filed on June 23, 2004, and the other pleadings and records on file herein, having considered the statements of Mr. Wilson and Defendant Domanguera, and being fully advised in the premises,

**IT IS HEREBY ORDERED** that the motion is **DENIED**.

DATED: Honolulu, Hawaii, JUN 28 2004.

BARRY M. KURREN

BARRY M. KURREN  
Judge of the Above-Entitled Court

APPROVED AS TO FORM:

  
\_\_\_\_\_  
BEVERLY WEE SAMESHIMA  
Assistant U.S. Attorney

United States of America v. Felipe Raquinden Domanguera, CR. NO. 04-00061(2) DAE; ORDER DENYING DEFENDANT FELIPE RAGUINDEN DOMANGUERA'S MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL FILED JUNE 25, 2004

COPY

TRANSCRIPT OF MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL  
BEFORE THE HONORABLE BARRY M. KURREN  
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

For the Plaintiff: U.S. ATTORNEY'S OFFICE  
By: BEVERLY SAMESHIMA, ESQ.  
300 Ala Moana Boulevard, #6100  
Honolulu, Hawaii 96850

For the Defendant: JERRY WILSON, ESQ.  
220 S. King Street, #1450  
Honolulu, Hawaii 96813

Transcriber: Jessica B. Cahill  
P.O. Box 1652  
Wailuku, Maui, Hawaii 96793  
Telephone: (808) 244-0776

Proceedings recorded by electronic sound recording, transcript produced by transcription service

1                 THE CLERK: Court is now in session. Please be  
2 seated. Criminal number 04-00061DAE, USA versus defendant two  
3 Felipe Raguinden. And this is called for motion for withdrawal  
4 and substitution of counsel.

5                 MS. SAMESHIMA: Yes, good morning, your Honor, Beverly  
6 Wee Sameshima on behalf of the United States.

7                 THE COURT: Yes, good morning.

8                 MR. WILSON: Good morning, Judge, Jerry Wilson. I'm  
9 the substitute court appointed attorney for the defendant Felipe  
10 Domanguera who is present.

11                 THE COURT: Yes, good morning. So, Mr. Wilson, where  
12 do we stand on this at this point?

13                 MR. WILSON: As I said in my motion, your Honor, I'm  
14 ready, willing and able to continue to represent Felipe. When I  
15 spoke originally with Lane Takahashi we -- we've had the same  
16 problem. Mr. Domanguera is charged with conspiracy. If he went  
17 to trial the evidence would be as stated in paragraph four --

18                 THE COURT: Right.

19                 MR. WILSON: -- of the -- of the -- of the indictment.  
20 I understand Mr. Domanguera's position. I have tried to discuss  
21 with him federal conspiracy. What the word distribution means  
22 in terms of a federal conspiracy. It does not mean that I  
23 personally intended to sell it or distribute it. I've also  
24 talked to Mr. Domanguera about what aiding and abetting is.

25                 I've also told Mr. Domanguera that many, many small

1 time users very often make one little mistake that turns into a  
2 very, very big mistake. And under federal law the guidelines  
3 prevail.

4 THE COURT: Right.

5 MR. WILSON: And finally, your Honor, I told him that  
6 Ms. Sameshima is not about to drop this case, not about to take  
7 out the word distribution. If she did I think they'd fire her.  
8 I've told him that we had a chance at a motion to suppress, but  
9 as set forth in the -- he called me right after that and said he  
10 wanted to plead. He called me after that to say where was it.  
11 I said Ms. Sameshima is preparing it.

12 THE COURT: But is there -- you're -- you're prepared  
13 to represent him, you know, in whatever the course may be.

14 MR. WILSON: Judge, as you know, these cases often get  
15 this way when they get the plea offer, and you go over the --  
16 that infamous paragraph eight with them --

17 THE COURT: Right.

18 MR. WILSON: -- and you try to explain the very, very  
19 difficult terms to them. And that's what happened. I -- I  
20 understand the Court knows -- may know, but the last case I had  
21 with Ms. Sameshima resulted in a plea two weeks ago --

22 THE COURT: Right.

23 MR. WILSON: -- which was the same plea --

24 THE COURT: Right.

25 MR. WILSON: -- that I had taken. I would love to

1 work with Mr. Domanguera. I do understand his position.

2 THE COURT: Right.

3 MR. WILSON: I just can't do -- you know, Lane and I  
4 can't get him out of prison. Lane tried. I told him I can't  
5 get you out of jail --

6 THE COURT: Yeah.

7 MR. WILSON: -- pretrial. I'll try, but I can't -- I  
8 don't -- I'm sure Ms. Sameshima would fight that vigorously.

9 THE COURT: So, Mr. Domanguera, you know, you -- you  
10 have to work with the attorney. I mean, we can't keep  
11 reappointing, you know, new lawyers to represent you.

12 THE DEFENDANT: Can I?

13 THE COURT: Yes.

14 THE DEFENDANT: Good morning, your Honor.

15 THE COURT: Good morning.

16 THE DEFENDANT: Your Honor, actually, your Honor, I  
17 really like to cooperate with the Government and with my  
18 attorney. The only thing is I want an attorney to -- to  
19 represent me.

20 THE COURT: And he's -- and he's prepared to do that..

21 THE DEFENDANT: Yeah, I know, but the thing is I want  
22 to reason, because I want to plea out. I want to tell the  
23 truth, but not the untrue. But he trying to -- he trying to  
24 convince me for the untrue which is not -- which I never -- I  
25 never --

1                   THE COURT: Well, it sounds to me, Mr. Domanguera,  
2 that Mr. Wilson is doing all that he can for you and the  
3 circumstances are what they are. And if -- if -- if -- if the  
4 Government won't -- won't change, you know, the situation or the  
5 deal can't be negotiated perhaps the way you want it to go, I  
6 mean that's -- you know, it won't ever be different with whoever  
7 represents you. Do you understand that?

8                   THE DEFENDANT: Yeah, I know, but just like it's hard  
9 to take any responsibility that does not belong to me.

10                  THE COURT: Well, I understand, but -- and you -- you  
11 -- you just need to work with Mr. Wilson to do, you know, what  
12 -- what you believe you have to do in this case, and -- and --  
13 and I certainly would -- would -- would listen closely to his  
14 advice and, you know, hopefully you could be on the same page on  
15 this. But he's prepared to represent you in whatever way, you  
16 know, you need to be represented.

17                  THE DEFENDANT: Yeah, well, all I can say is if he can  
18 do that, and then I will get -- I going plea -- I will cooperate  
19 with them hundred -- over 100 percent cooperation about this  
20 case as long they cannot give me the -- I really -- the -- if  
21 they really give me their support or the -- the help that I'm  
22 looking for my case.

23                  THE COURT: Okay. So, I -- I -- you know, I -- I -- I  
24 just don't see a material breakdown in the attorney client  
25 relationship here. And, Mr. Domanguera, we've -- we've made a

1 change once before. I want you to really work hard to work well  
2 with Mr. Wilson. You know, he's trying his very best to  
3 represent you. He's doing so adequately and -- and  
4 appropriately from what I can see. You know, listen closely to  
5 his advice, work with him, and he'll do, you know, whatever  
6 needs to be done in your case with what you authorize him to do.

7 THE DEFENDANT: Yeah.

8 THE COURT: Okay.

9 THE DEFENDANT: Your Honor, one more thing is just  
10 like I do not have the papers work from my -- never give me the  
11 paperwork -- send me paperworks from -- from him. It's just  
12 like if the person -- if that codefendant had plead out and then  
13 I want to know the paperwork what the -- what the codefendant  
14 plea out, but they never send me a copy for that. So, that I  
15 know what I'm going -- what I'm doing with my case.

16 MR. WILSON: Your Honor, that's the first I've heard  
17 of that. He asked me what the other -- there's other COD's,  
18 Judge, one's pled, one's not. When I met with him day before  
19 yesterday he asked me what the other defendant pled to, and I  
20 said same as you.

21 But they don't give me copies of the memorandum of  
22 plea agreement. This is the first that I've known that he  
23 wanted a copy of it, but I can't get that.

24 THE COURT: Right.

25 MR. WILSON: Maybe I can. I don't know.

1 MS. SAMESHIMA: I -- I'm sure if Mr. Wilson contacted  
2 Mr. Dana Ishibayashi he would be able to provide it.

3 THE COURT: Okay.

4 MR. WILSON: It's the same --

5 MS. SAMESHIMA: The final document.

6 MR. WILSON: -- it's the same deal, Judge.

7 THE COURT: Probably the same -- same agreement;  
8 right? Or essentially the same.

9 MS. SAMESHIMA: More or less, your Honor.

10 THE COURT: Yeah.

11 MS. SAMESHIMA: He pled to the conspiracy which is the  
12 only charge in this case.

13 THE COURT: Oh. Okay.

14 MS. SAMESHIMA: The same one that Mr. Domanguera is  
15 charged with. So --

16 THE COURT: Mr. Wilson will -- will follow up on that  
17 for you, Mr. Domanguera.

18 THE DEFENDANT: Yeah, so what I want from Mr. Wilson  
19 is just, like, just give me a copy -- every copy of the  
20 paperwork so that I know what's going on my case.

21 THE COURT: Okay. Well, you just -- just work hard to  
22 communicate together on this thing. I'm going to deny the  
23 motion. Mr. Wilson, if you would just prepare an order for the  
24 file please.

25 MR. WILSON: Yes, your Honor.

1                   THE COURT: Okay. Thank you. I'm going to move on to  
2 the next case.

3                   (At which time the above-entitled proceedings were  
4 concluded.)

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CERTIFICATE

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I, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

Dated this 2<sup>nd</sup> day of December, 2004.

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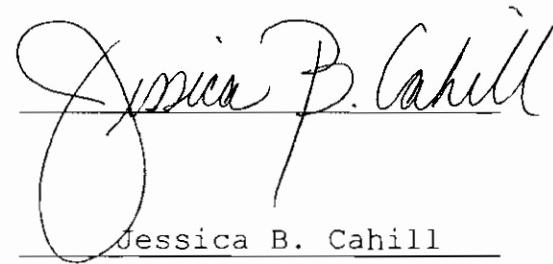
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Jessica B. Cahill